

S.30

An act relating to siting of electric generation plants

It is hereby enacted by the General Assembly of the State of Vermont:

* * * Findings * * *

Sec. 1. FINDINGS

The General Assembly finds:

(1) Vermont currently encourages the in-state siting of renewable electric generation projects. As with other land uses such as ski resorts or mountainside condominiums, the development of renewable electric generation projects brings both benefits and costs, which must be considered according to statutory criteria for development and siting review.

(2) To address concerns raised regarding the siting processes for electric generation projects and related recommendations in the 2011 Comprehensive Energy Plan, the Governor signed Executive Order No. 10-12 (the Executive Order) creating the Governor's Energy Generation Siting Policy Commission (the Commission). The Commission's charge is to survey best practices for siting approval of electric generation projects, except for net metering systems, and for public participation and representation in the siting review process, and to recommend modifications or improvements to be made to the process through legislation.

(3) In accordance with the Executive Order, the General Assembly anticipates receiving the report and recommendations from the Commission on or before April 30, 2013 and therefore establishes a process for further assessments of issues related to electric generation siting and to consider the report and recommendations in advance of the 2014 legislative session.

* * * Joint Energy Committee * * *

Sec. 2. 2 V.S.A. § 601 is amended to read:

§ 601. CREATION OF COMMITTEE

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(b) The ~~committee~~ Committee shall elect a chair, ~~vice-chair~~ vice chair, and clerk and shall adopt rules of procedure. The ~~chair~~ Chair shall rotate biennially between the house and the senate members. The ~~committee~~ Committee may meet during a session of the ~~general assembly~~ General Assembly at the call of the ~~chair~~ Chair or a majority of the members of the ~~committee~~ Committee. The ~~committee~~ Committee may meet no more than six times during adjournment ~~subject to approval of the speaker of the house and the president pro tempore of the senate, except that the Speaker of the House and the President Pro Tempore of the Senate may approve one or more additional meetings of the Committee during adjournment.~~ A majority of the membership shall constitute a quorum.

* * * Electric Generation Siting; Assessment; Report * * *

Sec. 3. DEFINITIONS

In Secs. 3 through 5 of this act:

- (1) “ACCD” means the Agency of Commerce and Community Development.
- (2) “ANR” means the Agency of Natural Resources.
- (3) “Board” means the Natural Resources Board.
- (4) “Department” means the Department of Public Service.
- (5) “Electric generation plant” means a plant that produces electricity and has a plant capacity that exceeds 500 kilowatts.
- (6) “Executive Order” means Executive Order No. 10-12 dated October 2, 2012 creating the Siting Policy Commission.
- (7) “Joint Energy Committee” means the Joint Energy Committee created under 2 V.S.A. chapter 17.
- (8) “Plant” and “plant capacity” shall have the same meaning as in 30 V.S.A. § 8002, except that they shall not be limited to renewable energy.
- (9) “Regional planning commission” shall have the meaning as in 24 V.S.A. § 4303.
- (10) “Siting Policy Commission” means the Governor’s Energy Siting Policy Commission created by Executive Order No. 10-12 dated October 2, 2012.

(11) “VDH” means the Department of Health.

(12) “Wind generation plant” means an electric generation plant that captures the energy of the wind and converts it into electricity. The term includes all associated facilities and infrastructure such as wind turbines, towers, guy wires, power lines, roads, and substations.

(13) “Wind meteorological station” means any tower, and associated guy wires and attached instrumentation, constructed to collect and record wind speed, wind direction, and atmospheric conditions.

Sec. 4. DEPARTMENT; ELECTRIC GENERATION SITING;
ASSESSMENT; REPORT

(a) Charge. On or before November 15, 2013, the Department, in consultation with and assisted by the ACCD, ANR, the Board, the Department of Taxes, VDH, and the regional planning commissions, shall conduct and complete each assessment and submit the report and recommendations required by this section.

(b) Governor’s Siting Policy Commission. In performing its tasks under this section, the Department shall use the information and data collected by and consider the report and recommendations of the Siting Policy Commission.

(c) Assessment. The Department, assisted by ACCD, ANR, the Board, the Department of Taxes, VDH, and the regional planning commissions, shall complete a written assessment of each of the following:

(1) the appropriateness and economic efficiency of investing or encouraging investment in renewable electric generation plants to reduce Vermont's greenhouse gas emissions in comparison to other measures to reduce those emissions such as transportation fuel efficiency and thermal and electric energy efficiency;

(2) the current policy and practice of selling renewable energy credits from renewable electric generation plants in Vermont to utilities in other jurisdictions and the effect of this policy and practice on reducing Vermont's greenhouse gas emissions;

(3) methods to integrate state energy planning and local and regional land use planning as they apply to electric generation plants;

(4) methods to strengthen the role of local and regional plans in the siting review process for electric generation plants and to assure that the siting review process reflects the outcome of the local and regional planning processes;

(5) methods to fund intervenors in the siting review process for electric generation plants; and

(6) with respect to wind generation plants and wind meteorological stations:

(A) health impacts of plants and stations located in and outside Vermont;

(B) sound and infrasound emitted from plants and stations located in and outside Vermont as they affect public health and quality of life;

(C) setback requirements on such plants and stations adopted by other jurisdictions in and outside the United States;

(D) the impacts on the environment, natural resources, and quality of life of the plants and stations in Vermont in existence or under construction as of the effective date of this section; and

(E) the economic and environmental costs and benefits of such plants and stations, including the value of any ecosystem services affected by them.

(d) Report; proposed legislation. On or before November 15, 2013, the Department, assisted by ACCD, ANR, the Board, the Department of Taxes, VDH, and the regional planning commissions, shall submit a report to the House and Senate Committees on Natural Resources and Energy, the Senate Committee on Finance, the House Committee on Commerce and Economic Development, and the Joint Energy Committee that contains each of the following:

(1) The results of each assessment to be conducted under subsection (c) of this section.

(2) Recommendations and proposed legislation to:

(A) establish a comprehensive planning process for the siting of electric generation plants that integrates state energy and local and regional land use planning;

(B) ensure that the outcome of this integrated planning process directs the siting review process for electric generation plants and that local and regional land use plans have a determinative role in this siting review process;

(C) establish a method to fund intervenors participating in the siting review process for electric generation plants;

(D) maximize the reductions in Vermont's greenhouse gas emissions supported by revenues raised from Vermont taxpayers and ratepayers;

(E) establish standards applicable to all wind generation plants and wind meteorological stations to address their impacts on the public health, environment, land use, and quality of life, including standards to protect natural areas and wildlife habitat and to establish noise limits and setback requirements applicable to such plants and stations; and

(F) establish a procedure to measure a property owner's loss of value, if any, due to proximity to a wind generation plant and to propose a method to compensate the property owner for the loss in value, including a determination of who shall pay for such loss.

(e) Public notice and participation.

(1) The Department shall give widespread public notice of the assessment and report required by this section and shall maintain on its website a prominent page concerning this process that provides notice of all public meetings held and posts relevant information and documents.

(2) In performing the assessment and developing the report required by this section, the Department shall provide an opportunity for local legislative bodies, local planning commissions, affected businesses and organizations, and members of the public to submit relevant factual information, analysis, and comment. This opportunity shall include meetings conducted by the Department at locations that are geographically distributed around the State to receive such information, analysis, and comment.

(f) Joint Energy Committee. During adjournment between the 2013 and 2014 sessions, the Joint Energy Committee (the Committee) shall review the conduct and content of the assessment and report required by this section and the report and recommendations of the Siting Policy Commission and discuss potential legislation on planning for and siting of electric generation plants. To this end, the Committee may:

(1) direct the Department, ACCD, ANR, the Board, the Department of Taxes, VDH, and one or more regional planning commissions to appear and provide progress reports on the assessment and report required by this section

and discuss proposals of draft legislation on planning for and siting of electric generation plants; and

(2) direct members of the Siting Policy Commission to appear and provide information and testimony related to the Commission's report and recommendations issued pursuant to the Executive Order and to the siting of electric generation plants in Vermont. This authority shall continue until the General Assembly reconvenes in 2014 whether or not the Siting Policy Commission ceases to exist prior to that date.

Sec. 5. APPROPRIATION

For fiscal year 2014, the sum of \$75,000.00 is appropriated to the Department of Public Service from Special Fund No. 21698 (Department of Public Service; Energy and Regulation Fund) for the purpose of Sec. 4 of this act (electric generation siting; assessment; report).

Sec. 6. DELETED

Sec. 7. DELETED

Sec. 8. DELETED

* * * State Lands * * *

Sec. 9. 10 V.S.A. chapter 88 is added to read:

CHAPTER 88. PROHIBITION; COMMERCIAL CONSTRUCTION;

CERTAIN PUBLIC LANDS

§ 2801. POLICY

Vermont's state parks, state forests, natural areas, wilderness areas, wildlife management areas, and wildlife refuges are intended to remain in a natural or wild state forever and shall be protected and managed accordingly.

§ 2802. PROHIBITION

(a) Construction for any commercial purpose, including the generation of electric power, shall not be permitted within any state park or forest, wilderness area designated by law, or natural area designated under section 2607 of this title.

(b) This section shall not prohibit:

(1) the construction of a concession or other structure for the use of visitors to state parks or forests;

(2) a modification or improvement to a dam in existence as of the effective date of this section, if the modification or improvement is:

(A) to ensure public safety; or

(B) to allow the dam's use for the generation of electricity, and the construction of any power lines and facilities necessary for such use;

(3) the construction of telecommunications facilities, as defined in 30 V.S.A. § 248a(b) (certificate of public good; communications facilities), in accordance with all other applicable state law;

(4) a structure, road, or landing for forestry purposes as may be permitted on a state land;

(5) tapping of maple trees and associated activities on state forestland authorized under a license pursuant to section 2606b of this title; or

(6) construction on state land that is permitted under a lease or license that was in existence on this act's effective date and, in the case of a ski area, the renewal of such a lease or license or its modification to allow expansion of the ski area.

Sec. 10. REPEAL

10 V.S.A. § 2606(c) (state forests; parks; leases for mining or quarrying) is repealed.

* * * Effective Dates * * *

Sec. 11. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 5 (appropriation) of this act shall take effect on July 1, 2013.